REMARKS

In the Office Action mailed June 14, 2007, (hereafter "Office Action"), the specification was objected to; claims 1, 2, 4, 6 and 15-17 were objected to based on formalities; claim 16 was rejected under 35 USC § 112, second paragraph; claims 21-25 were rejected under 35 USC § 102; and claims 1-6, 9-11 and 14-20 were rejected under 35 USC § 103.

Claims 1-6, 9-11 and 14-25 are pending. Claims 7-8 and 12-13 were cancelled in a Preliminary Amendment. Claims 1-2, 6, 11, 15-17 and 20-24 are herein amended, and claims 1-6, 9-11 and 14-25 remain in the application for consideration upon entry of the present Amendment. No new matter has been introduced by these amendments. Reconsideration and allowance of the claims are respectfully requested in view of the above amendments and the following remarks. The objections and rejections are respectfully traversed below.

The Applicants acknowledge with appreciation the grant of a telephonic interview by the Examiner held on Thursday, November 15, 2007, in which the Examiner indicated that the proposed claim amendments if included in Applicants' response would overcome the claim objections and the claim rejections under 35 USC § 112, second paragraph. Thus, the proposed claims presented to the Examiner during the telephonic interview with the Examiner are included herein.

Drawings

Applicants acknowledge with appreciation in item 10 of the Office Action Summary, the indication by the Examiner that the drawings filed on 21 November 2003 were accepted.

Priority

Applicants acknowledge with appreciation in item 1 on page 2 of the Office Action, the indication by the Examiner that the benefit of a prior-filed application under USC § 119(e) was acknowledged by the Examiner.

Information Disclosure Statement

Applicants acknowledge with appreciation in item 2 on page 2 of the Office Action the indication by the Examiner that Applicants' Information Disclosure Statement (IDS) is considered.

Specification Objection

In item 3 on page 2 of the Office Action, the Abstract was objected to because the term "'proactively offering' is contradictory to 'the turbo boost being invoked for the task as the result of locating a task that meets at least one of the turbo boost triggering criteria'. . . . As disclosed, the event is neither proactive nor does it offer anything. The turbo boost service is retroactive to the task fulfilling the turbo boot triggering criteria. Correction is required" (Office Action, page 2, lines 10-15).

In item 4 on page 2 of the Office Action, the Abstract was objected to because the term "'set of one or more turbo boost triggering criteria' leads to confusion as to the meaning of the term set'" (Office Action, page 2, lines 16-18). Examples of "a plurality of turbo boost triggering criteria" are discussed in the original specification at least at paragraphs [0009] and [0014]. For example, paragraph [0009] discloses "performing a method including receiving a set of one or more turbo boost triggering criteria associated with a user" (specification, paragraph [0009], lines 4-5. In addition, paragraph [0014] discloses examples what the set "of such triggering events include[s] (but . . . not limited to): a manual end user request; a request from desktop client software in response to excessive time for a file transfer; a request form an application; the detection of a destination address for which high speed transfer might be recommended; and the detection of large files to be transferred" (specification, paragraph [0014], lines 4-7).

It is well settled by guidance in the MPEP that the "purpose of the abstract is to enable the United States Patent and Trademark Office and the public generally to determine quickly from a cursory inspection the nature and gist of the technical disclosure" (MPRP 608.01(b)). The Abstract as drafted provides such enabling to USPTO Examiners and to the public generally. The language in the Abstract describes a

proactive offering of highspeed access without the user asking for it. Furthermore, the language in the Abstract concerning the "set of one or more turbo boost triggering criteria" (Abstract, lines 1-3) finds support in the specification, at least in paragraph [0014]. Therefore, in that sense the language in the Abstract describes a proactive offering. For at least the above reasons, the Abstract is definite and allows Examiners and the public in general to get the nature and gist of the technical disclosure of the application. It is respectfully requested that the objections to the Abstract be withdrawn in the next Office Action.

Claim Objections

In items 5-9 spanning pages 3-4 of the Office Action, claims 1, 2, 4, 6 and 15-17 were objected to based on various informalities.

Claims 1, 2, 4, 6 and 15-17 have been amended pursuant to the Examiner's suggestions and the objections are respectfully traversed.

In item 7 on page 3 of the Office Action, claims 2 and 4 were "objected to because . . . claims 2 and 4 recite 'user client-based trigger'. The terms 'user' and 'client' are the same" (Office Action, page 3, line 17 to page 4, line 1). The phrase "user client" found in the specification in paragraphs [0016] and [0017] differentiates between a type of client; for example, there can be "content provider" which is a type of client, of an ISP, i.e., Internet Service Provider as indicated in paragraphs [0008], [0014], [0016] and [0019]; also, there can be an application provider type of client of the ISP as indicated in paragraphs [0016] and [0022]. Thus, the terms "user" and "client" are not the same. There can be many different types of clients of Internet Service Providers. It is respectfully requested that the objection to claims 2 and 4 be withdrawn in the next Office Action.

The remaining claim objections to claims 1, 2, 6 and 15-17 have been corrected by amendment to the claims, as approved by the Examiner in the above mentioned Interview. Therefore, it is respectfully requested that the objections to claims 1, 2, 4, 6 and 15-17 be withdrawn in the next Office Action.

Claim Rejections Under 35 U.S.C. § 112, Second Paragraph

In items 10 and 11 on page 5 of the Office Action, claim 16 was rejected under 35 U.S.C. § 112, second paragraph, as indefinite because the recitation "'turbo boost offer triggering criteria' is not defined or supported by the disclosure . . . [and the] term 'turbo boost offer triggering criteria' is not defined by the claim" (Office Action, page 5, lines 4-6).

In contrast to the above, the recitation "turbo boost offer triggering criteria" is defined, for example, at least in the following places in the original specification:

Paragraph [0002] discloses "a method of proactively offering a network turbo boost service to end users when pre-selected triggering events occur."

Paragraph [0004] discloses "ISPs . . . offer broadband 'turbo boost' services that offer temporary access to improved transmission for a limited time in exchange for a per-use or standing fee." Thus, paragraph [0004] defines "turbo boost" as a temporary access to an improved broadband transmission service, and which is offered in exchange for a fee.

The "proactive" aspect of the "method of proactively offering a network turbo boost service to end users when pre-selected triggering events occur" (paragraph [0002]) is described in paragraph [0006] as including 'receiving a set of one or more turbo boost triggering criteria associated with a user. A network is monitored for a task that meets at least one of the turbo boost triggering criteria. If the monitoring results in locating a task that meets at least one of the turbo boost triggering criteria, then an offer is transmitted to the user to invoke the network turbo boost service for the task . . . [and] automatically initiate the network turbo boost service for a user [paragraph [0019] [this is the proactive part, where a network task is located that triggers the offer to the user of using the temporary access to an improved broadband transmission service automatically (see paragraphs [0004], [0007], [0019] and [0022])] The network turbo boost service is invoked for the task if the user responds. . . ." (paragraph [0006]). Also, see paragraph [0017].

030340 (BLL-0121)   12

Turbo boost trigger criteria are defined as: "trigger events listed in the service provider trigger monitor/logic box 304. The first type of trigger event that may be detected by the trigger detection system 108 is a request from an application [specification, paragraph [0025], lines 3-6]. . . . The second kind of trigger event. . . is a request from a user client [specification, paragraph [0025], lines 8-9]" (see the original specification, paragraph [0025] and FIG. 3, element 304).

"A third type of trigger event listed in the service provider trigger monitor logic box 304 is where a specific destination address is accessed[specification, paragraph [0026], lines 1-2]. . . . A fourth type of trigger event occurs when the size of a file to be transferred is larger than a pre-selected size limit" (see the original specification, paragraph [0026], lines 7-8 and FIG. 3, element 304).

Additional triggering criteria are discussed in paragraph [0014], lines 4-7 and paragraph [0023], lines 13-18. These criteria include: "a manual end user request . . . [and] a request from desktop client software in response to excessive time for a file transfer. . . ." (paragraph [0014]) and "when a large incoming file is detected; when a large outgoing file is detected; when a destination address is on a list of high transmission rate applications (e.g., video conferencing sites, gaming sites); and/or when a request is received from an application that typically requires downloading of application code data (e.g., service packs, software updates)" (paragraph [0023]).

For at least the above reasons, the term "turbo boost offer triggering criteria" is defined and supported in the disclosure; thus, claim 16, which incorporates the language of "turbo boost offer triggering criteria" is definite and antecedent basis for this language is found in the specification.

Additionally, claim 16 is herein amended to define that "turbo boost offer triggering criteria" include "one of wherein the turbo offer triggering criteria includes one of when a large incoming file is detected; when a large outgoing file is detected; when a destination address is on a list of high transmission rate applications and when a request is received from an application that requires downloading of application code data" (claim 16, lines 18-21). Thus, the recitation of "turbo boost offer triggering criteria" is

defined in claim 16. For at least these reasons claim 16 is definite. It is respectfully requested for at least the above reasons that the rejection of claim 16 under 35 USC § 112, second paragraph be withdrawn in the next Office Action.

Claim Rejections Under 35 U.S.C. § 102(a)

In items 12-17 spanning pages 6-8 of the Office Action, claims 21-25 were rejected under 35 USC § 102(b), as anticipated by DSL Forum DSL Evolution-Architecture Requirements for the Support of QoS-Enabled IP Services, Proposed Draft PD-OOX, Revision 1 (hereafter "PD-OOX").

Claim 21 as amended recites:

receiving a set of one or more available network turbo boost triggering options, where the set of one or more available network turbo boost triggering options include destination addresses for which high speed transfer will be recommended, and one of being notified when a large incoming file is detected, being notified when a large outgoing file is detected, being notified when a destination address is on a list of high transmission rate applications, and being notified when a request is received from an application that typically requires downloading of application code data, where the application that typically requires downloading of application code data includes service packs, and software updates, where the list of high transmission rate applications includes video conferencing sites and gaming sites, and where the destination addresses include a gaming application address and a video conferencing address;

(claim 21, lines 5-16). Examples of the set of turbo boost triggering options are discussed in the original specification at least in paragraph [0014], lines 6-7 and paragraph [0023], lines 13-18. Nothing was cited or found in the reference to PD-OOX that teaches either explicitly or inherently the set of turbo boost triggering options, as

recited in claim 21 at lines 5-16. For at least this reason, claim 21 distinguishes over the applied art and is allowable.

Claim 24 recites turbo boost triggering options in a manner similar to claim 21. Dependent claims 22-23 and 25 depend from claims 21 and 24 respectively; therefore, claims 23-25 distinguish over the applied art for the reasons discussed in regard to claim 21 and are allowable. It is respectfully requested that the rejections of claims 21-25 under 35 USC § 102(b) be withdrawn in the next Office Action.

Claim Rejections Under 35 U.S.C. § 103(a)

In items 18-82 spanning pages 9-28, claims 1-6, 9-11, 14-20 were rejected under 35 USC § 103(a), as unpatentable over US Patent Application Publication No. 2003/0023722A1 to Vinberg (hereafter "Vinberg") in view of PD-OOX.

Claim 1 is directed to an Internet Service Provider's:

[offering of] broadband 'turbo boost' services that offer temporary access to improved transmission for a limited time in exchange for a per-use or standing fee. The improved transmission vehicle is typically an increase in potential bandwidth. Once a user subscribes to the service, such existing services are typically triggered by simple mechanisms such as: providing the turbo boost to all communications during a specified time period; or providing turbo boost whenever the user accesses a particular destination address or set of destination addresses specified by the user

(paragraph [0004]). Thus, paragraph [0004] defines "turbo boost" as a temporary access to an improved broadband transmission service offering greater bandwidth automatically over a communications network, and which is offered in exchange for a fee. (Also, see paragraph [0019].

Claim 1 recites a:

method of providing a network turbo boost service, the method comprising: receiving in a service provider system one or more turbo

030340 (BLL-0121)   15

boost triggering criteria of a plurality of turbo boost triggering criteria associated with a user; monitoring a network for a task that meets an at least one turbo boost triggering criteria of the plurality of turbo boost triggering criteria; and if the monitoring results in locating a task that meets the at least one of the turbo boost triggering criteria then automatically invoking by the service provider system the network turbo boost service for the task

(claim 1, lines 1-8). Support for the amendments to claim 1 can be found in the original specification in paragraphs [0004], [0008], [0014] and [0016]. Triggering criteria "include (but . . . not limited to): a manual end user request; a request from desktop client software in response to excessive time for a file transfer; a request form an application; the detection of a destination address for which high speed transfer might be recommended; and the detection of large files to be transferred" (specification, paragraph [0014], lines 4-7).

Further, triggering criteria are defined as "trigger events listed in the service provider trigger monitor/logic box 304. The first type of trigger event that may be detected by the trigger detection system 108 is a request from an application [specification, paragraph [0025], lines 3-6]. . . . The second kind of trigger event. . . is a request from a user client [specification, paragraph [0025], lines 8-9]" (see the original specification, paragraph [0025] and FIG. 3, element 304).

"A third type of trigger event listed in the service provider trigger monitor logic box 304 is where a specific destination address is accessed[specification, paragraph [0026], lines 1-2]. . . . A fourth type of trigger event occurs when the size of a file to be transferred is larger than a pre-selected size limit" (see the original specification, paragraph [0026], lines 7-8 and FIG. 3, element 304).

Additional triggering criteria are discussed in paragraph [0014], lines 4-7 and paragraph [0023], lines 13-18. These criteria include: "a request from desktop client software in response to excessive time for a file transfer. . . ." (paragraph [0014]) and "when a large incoming file is detected; when a large outgoing file is detected; when a destination

address is on a list of high transmission rate applications (e.g., video conferencing sites, gaming sites); and/or when a request is received from an application that typically requires downloading of application code data (e.g., service packs, software updates)" (paragraph [0023]).

Therefore, "turbo boost" provides a temporary access to an improved broadband transmission service offering greater bandwidth, and which is offered in exchange for a fee, all based on communications network triggering events.

The reference to Vinberg is directed to "the field of monitoring and managing ongoing processes. . . . and generating alert and diagnostic messages **for the attention of human operators**" (paragraph [0002], emphasis added), by way of providing "improved alert messaging . . . and methods capable of filtering alert messages . . . to report operator desired messages . . . which includes defining alert filter criteria . . . and analyzing . . . and reporting the alert condition" (Vinberg, paragraph [0008]). Thus, Vinberg is directed to alerting human operators of important events so that humans can troubleshoot the monitored events.

Furthermore, it was admitted in the Office Action that Vinberg does not teach "turbo boost triggering criteria . . . [and] invoking the network turbo boost service for the task" (Office Action, page 10, lines 2-3).

Not only does Vinberg not teach "turbo boost triggering criteria . . . [and] invoking the network turbo boost service for the task" as recited in claim 1, but also Vinberg is non-analogous art.

The MPEP provides guidance in regard to non-analogous art and provides that "a reference must either be in the field of applicant's endeavor or, if not then, be reasonably pertinent to the particular problem with which the invention was concerned" (MPEP 2141.01(a)).

As indicated above, it was admitted that Vinberg does not teach critical features of "turbo boost triggering criteria . . . [and] invoking the network turbo boost service for the task" (Office Action, page 10, lines 2-3). Thus, for at least this reason, Vinberg is not

reasonably pertinent to the particular problem with which the Applicants' claims are directed, i.e., to automatically provide a temporary access to an improved broadband transmission service offering greater bandwidth, and which is offered in exchange for a fee, all based on communications network triggering events. Furthermore, Vinberg is not in the field of applicants' endeavor because Vinberg is directed to alerting humans of abnormal states so the humans can diagnose the abnormal state conditions and take corrective action, which is in contrast to the Applicants' features of automatically providing a temporary access to an improved broadband transmission service offering greater bandwidth, and which is offered in exchange for a fee, over a communications network, based on triggering events by "locating a task that meets the at least one of the turbo boost triggering criteria then automatically invoking by the service provider system the network turbo boost service for the task" as recited in claim 1, at lines 7-8.

Subsequently, it was proffered in the Office Action that PD-00X's teaching of "dynamically increasing the bandwidth by activating network turbo boost service through turbo boost button usage (activation of the turbo boost service by manually pressing the turbo boost button) combined with the disclosure of Vinberg teaches or suggests "locating a task that meets the at least one of the turbo boost triggering criteria then invoking the network turbo boost service for the task" as recited in claim 1, at lines 7-8. However, both PD-00X and Vinberg are directed to human intervention and not "locating a task that meets the at least one of the turbo boost triggering criteria then automatically invoking by the service provider system the network turbo boost service for the task" as recited in claim 1, at lines 7-8. Thus, nothing was cited or found in Vinberg and PD-00X either combined or taken individually that teaches or suggests "locating a task that meets the at least one of the turbo boost triggering criteria then automatically invoking by the service provider system the network turbo boost service for the task" as recited in claim 1, at lines 7-8. For all of the above reasons, claim 1 distinguishes over the applied art and is allowable.

Independent claims 15, 16, 17 and 20 recite locating a task that meets the at least one of the turbo boost triggering criteria then invoking by the service provider system the network turbo boost service for the task in a manner similar to claim 1. Dependent

claims 2-6, 9-11 and 14 depend from claim 1. Dependent claims 18 and 19 depend from claim 17. Therefore, claims 2-6, 9-11 and 14-20 distinguish over the applied art for the reasons discussed in regard to claim 1 and are allowable.

It is respectfully requested that the rejections of claims 1-20 under 35 USC § 103(a) be withdrawn in the next Office Action.

It is believed that the foregoing amendments and remarks fully comply with the Office Action and that the claims herein should now be allowable to Applicants. Accordingly, reconsideration and allowance are requested.

If there are any additional charges with respect to this Amendment or otherwise, please charge them to Deposit Account No. 06-1130.

Respectfully submitted,

CANTOR COLBURN LLP

By /John Leonard Young/
    John Leonard Young
    Registration No. 57,150

Date: December 10, 2007
CANTOR COLBURN LLP
55 Griffin Road South
Bloomfield, CT 06002
Telephone (404) 607-9991
Facsimile (404) 607-9981
Customer No.: 36192